

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 1.D
Mtg. Date March 20, 2018
Dept. City Manager's Office

Item Title: **Authorization to Submit a Grant Program Application for Proposition 56 Funding From the Department of Justice to Fund Enforcement of a Forthcoming Tobacco Retailer Licensing Program**

Staff Contact: Miranda Evans, Management Analyst

Recommendation:

Adopt a resolution (**Attachment B**):

1. Authorizing submittal of a grant application to the Department of Justice for Proposition 56 Funding; and
2. Directing the City Manager or her designee to execute any grant related documents upon receipt of potential award.

Item Summary:

California Attorney General Xavier Becerra recently announced a new grant program to reduce the illegal sale of tobacco products, especially to minors. The \$30 million grant program, established and funded by the California Healthcare, Research and Prevention Tobacco Tax Act of 2016, Proposition 56, will be available to local law enforcement agencies throughout California starting in March 2018.

Approved by voters in 2016, Proposition 56 increased taxes on cigarettes and other tobacco products by \$2.00 starting in April 2017. The initiative specifically allocates \$30 million of annual revenue to the California Department of Justice. These funds will support local law enforcement investigations intended to reduce the illegal sale of tobacco products to minors. Staff identified this as a funding source in the implementation and enforcement of a forthcoming Tobacco Retailer Licensing Program.

Fiscal Impact:

Funding in the amount of \$42,580.15 will be requested on the grant application and matching funds are not required.

Environmental Review:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 500 ft. |
| <input checked="" type="checkbox"/> Notice published on the City website. | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution

Attachment A

LEMON GROVE CITY COUNCIL STAFF REPORT

Item No. 1.D

Mtg. Date March 20, 2018

Item Title: **Authorization to Submit a Grant Program Application for Proposition 56 Funding From the Department of Justice to Fund Enforcement of a Forthcoming Tobacco Retailer Licensing Program**

Staff Contact: **Miranda Evans, Management Analyst**

Background:

California Attorney General Xavier Becerra recently announced a new grant program to reduce the illegal sale of tobacco products, especially to minors. The \$30 million grant program, established and funded by the California Healthcare, Research and Prevention Tobacco Tax Act of 2016, Proposition 56, will be available to local law enforcement agencies throughout California starting in March 2018.

Approved by voters in 2016, Proposition 56 increased taxes on cigarettes and other tobacco products by \$2.00 starting in April 2017. The initiative specifically allocates \$30 million of annual revenue to the California Department of Justice. These funds will support local law enforcement investigations intended to reduce the illegal sale of tobacco products to minors. Staff identified this as a funding source in the implementation and enforcement of a forthcoming Tobacco Retailer Licensing (TRL) Program.

As with the other five San Diego County jurisdictions with a TRL Program, Lemon Grove's program will be created with a self-sustaining license fee that will completely cover the cost of the program administration and enforcement costs incurred by the San Diego County Sheriff's Department Lemon Grove Substation. Staff anticipates TRL costs to be similar to the City of San Marcos and the City of Vista, ranging between \$189.50 - \$250, and is creating a fee estimate that will cover the administration of the license and enforcement through yearly compliance checks. The goal is to provide a discount that incentivizes compliance, but still allows the City to cover all of the direct costs paid to the Sheriff's Department for inspections. It is essential that the fee structure stay within the confines of Proposition 26 which mandates that the City cannot recover more revenue than the cost of implementing the program.

Discussion:

In January 2018, staff became aware of this grant opportunity and identified it as an implementation measure for the proposed TRL Program. In accordance with the State Budget Act and Proposition 56, the grant program guidelines require that only local law enforcement agencies within the State of California are eligible to receive funds. However, the grantee handbook states that joint applications are accepted. City staff has taken the lead in creating and submitting the project proposal and if funding is awarded, will assist with the grant implementation, management and reporting. The application deadline is March 23, 2018. Agencies selected as award recipients will be funded for up to 25 months with the program expiring on June 30, 2020.

Project Goals

Through coordination with the San Diego Sheriff's Department Lemon Grove Substation and Community Action Service Advocacy (CASA), City staff identified several key goals for the grant funding as outlined below:

Attachment A

1. Conduct annual tobacco-related enforcement operations targeting licensed retailers.
2. Conduct as-needed post-enforcement operations targeting licensed retailer that previously violated statutes or ordinances.
3. Conduct annual “shoulder tap” or other operations involving the furnishing of tobacco products to minors with the assistance of trained youth decoys in the CASA youth surveyor program.
4. Reduce the illegal sales rate to minors from the 2017 pre-TRL adoption rate of 31 percent to 15 percent or below in the first year of enforcement (calendar year 2019) and 10 percent or below in 2020.
5. Improve and increase the community policing presence within Lemon Grove by strengthening law enforcement’s relationships with local businesses.

Strategies

The abovementioned project goals will be achieved through implementation of the strategies below:

1. Annual compliance checks of each tobacco-retailer in Lemon Grove.
2. As-needed follow-up actions with retailers in non-compliance with the forthcoming TRL ordinance.
3. Data tracking of compliance checks, follow-up and decoy/survey interactions.
4. Use a community policing approach to reduce the illegal sales rate of tobacco to minors.

Allocation of Funds

The Proposition 56 grant does not require an agency contribute via matching funds. The key needs for the grant funds include the administration and enforcement of the program. The funding, if awarded to the City, will be utilized to cover the estimated costs of the below functions and the personnel who will perform them.

- Administration Costs
 - o License Clerk: Send annual license renewal notices, accept payment upon receipt, input and organize retailer data into the City’s licensing system.
 - 35 hours/year at the rate of \$21/hour
 - \$735/year
 - o Management Analyst: Create the new and necessary forms, conduct community outreach, act as staff liaison between tobacco-retailers, law enforcement and CASA, track and organize compliance check results and illegal sales rates.
 - 400 hours/year at the rate of \$33.20/hour
 - \$13,280/year
 - o Communications: Mailers and marketing materials to be sent out to inform and educate the community and tobacco retailers as-needed.
 - 100 mailers for 3 community meetings: \$50
 - East County Californian noticing: ~\$200
 - Colored copies of informational flyers: \$150
- Enforcement Costs
 - o San Diego County Sheriff’s Department: Conduct annual compliance checks of tobacco retailers, conduct as-needed follow-up checks, issue citations as-needed, and provide support to CASA as-needed when compliance checks with youth surveyors are conducted.
 - 90 hours/year
 - Assumes estimated fully burdened rate of \$100/hour
 - o Community Action Service Advocacy: retailer education visits, compliance checks with trained youth surveyors and adult observer, provision of evidence and

Attachment A

testimony by the adult supervisor in administrative hearings with city staff for retailers who appeal/oppose their notice of violation.

- \$56.30/store; ~31 retailers
- \$1,745.30/year
- Total Estimated Annual Costs of Administration and Enforcement
 - o \$25,160.30

Ideally, the funding awarded will cover the fully burdened cost for a San Diego County Sheriff Department employee, preferably a rehired annuitant, to conduct the annual retailer inspections. County rule permits retirees to work up to 120 days or 960 hours per year, whichever is greater, without affecting pension benefits. Given the above allocation of funds and the duration of the grant program, staff anticipates requesting an amount of grant funds for \$42,580.15.

Public Information: |

A robust public outreach plan will be implemented during the public information phase of this project. If grant funds are awarded, the DOJ will be acknowledged as the funding source. Public outreach will include the following communication methods through various platforms.

- Update of information and project announcement on the City's website homepage and tobacco retailer information subpage,
- News release and social media information campaign on Facebook, Instagram, Twitter and YouTube,
- Three community meetings,
- East County Californian notice,
- Individual letters sent to each Lemon Grove tobacco retailer, and
- Coordination with the San Diego County Sheriff's Lemon Grove Substation.

Conclusion:

Staff recommends that the City Council adopt a resolution (**Attachment B**) authorizing submittal of a grant application to the Department of Justice for Proposition 56 Funding and directing the City Manager or her designee to execute any grant related documents upon receipt of potential award. |

RESOLUTION NO. 2018 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA AUTHORIZING SUBMITTAL OF A GRANT APPLICATION TO THE DEPARTMENT OF JUSTICE FOR PROPOSITION 56 FUNDING AND DIRECTING THE CITY MANAGER TO EXECUTE ANY GRANT RELATED DOCUMENTS PENDING POTENTIAL AWARD

WHEREAS, In November 2016, the citizens of the State of California passed voter initiative Proposition 56 to increase state tobacco taxes and as a result of the initiative's passage, \$30 million in grant funding is available from the Department of Justice to support local law enforcement investigations intended to reduce the illegal sale of tobacco products to minors; and

WHEREAS, California Business & Professions Code Section 22971.3 authorizes local authorities to adopt tobacco retailer licensing laws to provide for the suspension and revocation of the local tobacco retailer license for any violation of a state tobacco control law; and

WHEREAS, On March 6, 2018, the City Council of the City of Lemon Grove approved proposed provisions for a Tobacco Retailer Licensing Program for the City to be officially implemented in 2019;

WHEREAS, California Penal Code Section 308 prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors; and

WHEREAS, in 2017, 31 percent of Lemon Grove tobacco retailers illegally sold products to minors; and

WHEREAS, The City of Lemon Grove will submit a joint application with the San Diego Sheriff's Department Lemon Grove Substation for Proposition 56 grant funding; and

WHEREAS, upon award of potential grant funds, The City of Lemon Grove will work in partnership with the San Diego Sheriff's Department Lemon Grove Substation and Community Action Service Advocacy (CASA) to achieve the following goals as set forth in the grant application:

1. Conduct annual tobacco-related enforcement operations targeting licensed retailers.
2. Conduct as-needed post-enforcement operations targeting licensed retailer that previously violated statutes or ordinances.
3. Conduct annual "shoulder tap" or other operations involving the furnishing of tobacco products to minors with the assistance of trained youth decoys in the CASA youth surveyor program.
4. Reduce the illegal sales rate to minors from the 2017 pre-TRL adoption rate of 31 percent to 15 percent or below in the first year of enforcement (calendar year 2019) and 10 percent or below in 2020.
5. Improve and increase the community policing presence within Lemon Grove by strengthening law enforcement's relationships with local businesses.

WHEREAS, funding in the amount of \$42,580.15 will be requested on the grant application.

WHEREAS, The City of Lemon Grove will comply with the grant requirements set forth in the Department of Justice's Request for Proposals which explicitly requires City Council's advance authorization of any future contract amendments for the purpose of increasing funding; and

Attachment B

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby:

1. Authorizes submittal of a grant application to the Department of Justice for Proposition 56 funding; and
2. Directs the City Manager or her designee to execute any grant related documents upon receipt of potential award and enter into a grant contract with the State of California.

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